

48A C.J.S. Judges § 318

Corpus Juris Secundum | August 2023 Update

Judges

Joseph Bassano, J.D.; Khara Singer-Mack, J.D.; Thomas Muskus, J.D; Karl Oakes, J.D. and Jeffrey J. Shampo, J.D.

IX. Disqualification to Act

D. Objections to Judge and Proceedings Thereon

2. Mode and Sufficiency of Raising Objection

a. General Considerations

§ 318. Filing of disqualification application—Timeliness

[Topic Summary](#) | [References](#) | [Correlation Table](#)

West's Key Number Digest

West's Key Number Digest, [Judges](#)  51(3)

In connection with a petition, application, or affidavit for disqualification of a judge, compliance must be had with applicable requirements as to the timeliness of filing.

The motion and affidavit supporting recusal of a judge must be timely filed.¹ Where the objection is not timely made, the motion or affidavit should allege the excuse therefor,² and specific rather than general allegations may be required.³ In this respect, the burden is on the affiant to show good cause for failure to file a motion in time.⁴

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Footnotes

¹ U.S.—*Netsphere, Inc. v. Baron*, 703 F.3d 296 (5th Cir. 2012); *Armenian Assembly of America, Inc. v. Cafesjian*, 783 F. Supp. 2d 78 (D.D.C. 2011).

Ga.—*Horne v. State*, 318 Ga. App. 484, 733 S.E.2d 487 (2012).

² U.S.—*U.S. v. Bennett*, 539 F.2d 45 (10th Cir. 1976).

Mo.—*Kelch v. Kelch*, 462 S.W.2d 161 (Mo. Ct. App. 1970).

Newly discovered bias

It was not an abuse of discretion to deny an untimely motion for a change of judge filed by defendant whose verified application alleged newly discovered bias but did not disclose when or how the alleged bias was first discovered, the facts warranting a change, or showing why such cause was not discovered earlier.

Ind.—*McChristian v. State*, 272 Ind. 57, 396 N.E.2d 356 (1979).

3 U.S.—*U.S. v. Enigwe*, 155 F. Supp. 2d 365 (E.D. Pa. 2001).

Ill.—*People v. Jones*, 197 Ill. 2d 346, 258 Ill. Dec. 775, 757 N.E.2d 464 (2001).

4 U.S.—*Roussel v. Tidelands Capital Corp.*, 438 F. Supp. 684, 25 Fed. R. Serv. 2d 375 (N.D. Ala. 1977).

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